

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3170  
Administrative Law Judge Division  
April 13, 2006

**R E S O L U T I O N**

RESOLUTION ALJ 176-3170. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hl2

### **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

### **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 13, 2006, the following Commissioners voting favorably thereon:

/s/ STEVE LARSON

STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3170 (4-13-06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-03-014</b> CITY OF PICO RIVERA, for authority to construct a grade separation of Parsons Boulevard, which currently crosses at grade the BNSF Railway Company right-of-way at Mile Post 151.45, and to close nearby Serapis Avenue at the BNSF Railway Company right-of-way at Mile Post 151.30, both located in the San Bernardino Subdivision, County of Los Angeles, City of Pico Rivera, State of California.	Ratesetting	Ratesetting	NO
<b>A06-03-015</b> EMBARQ CORPORATION, SPRINT LONG DISTANCE, INC., SPRINT PAYPHONE SERVICES, INC., for Approval of an Indirect Transfer of Control of Sprint Long Distance, Inc. (A.06-02-002 pending) and Sprint Payphone Services, Inc. (U 6018 C) to Embarq Corporation.	Ratesetting	Ratesetting	NO
<b>A06-03-017</b> JAMBO, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A06-03-018</b> WATTS, JOHN A., dba SAV-ON SHUTTLE, for authority to operate as a Passenger Stage Corporation between points in the Counties of Los Angeles, Orange, Riverside and San Diego, and the Airports located in Los Angeles, Long Beach, and Santa Ana (John Wayne); and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
<b>A06-03-019</b> TRANSCEND MULTIMEDIA, LLC, for a Certificate of Public Convenience and Necessity to provide Resold and Leased Facilities-Based Competitive Local Exchange Services.	Ratesetting	Ratesetting	NO
<b>A06-03-020</b> SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E), for Authority to Add City of Anaheim's Share of San Onofre Nuclear Generating Station Unit Nos. 2 & 3 (SONGS 2 & 3) to Applicant's Rates and Associated Relief.	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3170 (4-13-06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-03-021</b> MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT, for Authority to construct a new separated grade crossing at the extension of Central Parkway in the vicinity of Mile Post 74.8 of the Union Pacific Railroad Company in Mountain House, County of San Joaquin, State of California.	Ratesetting	Ratesetting	NO
<b>A06-03-022</b> COGENERATION ASSOCIATION OF CALIFORNIA, ENERGY PRODUCERS AND USERS COALITION, INDEPENDENT ENERGY PRODUCERS ASSOCIATION, for Rehearing of Commission Decision Approving the Filing of Reply Comments in FERC Docket RM06-10.	*	*	*
<b>A06-03-024</b> ADVANTAGE TELECOMMUNICATIONS CORP., dba ADV TELECOM, BLY, SONYA, SORRENTINO, ROBERT, for authority to transfer control of Advantage Telecommunications Corp., dba ADV Telecom (U 6148 C), via a Stock Purchase Agreement from Sonya Bly to Robert Sorrentino.	Ratesetting	Ratesetting	NO
<b>A06-03-025</b> ACCERIS MANAGEMENT AND ACQUISITION LLC, for a Certificate of Public Convenience and Necessity to provide Resold Local Exchange Services in the State of California.	Ratesetting	Ratesetting	NO
<b>A06-03-027</b> GRANT PARK DEVELOPMENT, A CALIFORNIA CORPORATION, dba DUNNIGAN WATER WORKS, for a Certificate of Public Convenience and Necessity to extend a Public Utility Water System in Dunnigan, County of Yolo; and to Establish Rates for Service.	Ratesetting	Ratesetting	NO
<b>A06-03-028</b> SOUTHERN CALIFORNIA EDISON COMPANY, for a Certificate of Public Convenience and Necessity to construct the Inland Empire-Valley 500 kV Transmission Line.	Ratesetting	Ratesetting	NO

\* Application for Rehearing of Resolution is assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

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Resolution ALJ 176-3170 (4-13-06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-03-029</b> SOUTHERN CALIFORNIA EDISON COMPANY, to Modify Decision No. 89-01-040 waiving the Requirement to File a 2007 Cost of Capital Application.	Ratesetting	Ratesetting	NO
<b>A06-03-030</b> PACIFIC GAS AND ELECTRIC COMPANY, to modify D.89-01-040 waiving the requirement to file an Annual Cost of Capital Application for Test Year 2007.	Ratesetting	Ratesetting	NO
<b>A06-04-001</b> SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E), for a Commission Finding that its Procurement- Related and other Operations for the record period January 1 through December 31, 2005 complied with its adopted Procurement Plan; for Verification of its entries in the Energy Resource Recovery Account and other Regulatory Accounts; and for recovery of \$20.57 Million recorded in various Memorandum Accounts.	Ratesetting	Ratesetting	YES
<b>A06-04-002</b> SIERRA PACIFIC POWER COMPANY (U 903 E), for authority to update its Energy Cost.	Ratesetting	Ratesetting	YES
<b>A06-04-003</b> CITY OF SAN DIEGO, for authority to construct a new Harbor Drive Pedestrian Overpass Grade Separation Bridge Structure, CPUC No.002-268.82-AD and DOT No.924617J over three (3) light rail vehicle tracks of the Metropolitan Transit Development Board and two (2) heavy rail tracks of the BNSF Railway Company in the City and County of San Diego, State of California.	Ratesetting	Ratesetting	NO
<b>A06-04-004</b> SOUTHERN CALIFORNIA GAS CO. (U 904 G), for authorization (1) to obtain Long-Term Debt Capital not to exceed the equivalent of U.S.\$400,000,000; (2) to include certain features in Debt Securities or enter into certain derivative transactions, including interest rate swaps, caps and collars, and/or Currency Exchange Contracts to lower cost of money; (3) to issue and sell not more than U.S. \$100,000,000 Par or Stated Value of Preferred or Preference Stock; et al.	Ratesetting	Ratesetting	NO



## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3170 (4-13-06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-04-006</b> CITY OF SANTA CLARA, for Authority to construct a new recreational trail under the Peninsula Corridor Joint Powers Board railroad, Mile Post 42.34 in the City and County of Santa Clara, State of California.	Ratesetting	Ratesetting	NO
<b>A06-04-007</b> COUNTY OF LOS ANGELES, DEPARTMENT OF PUBLIC WORKS, for an Order authorizing the construction of a new bridge across the Alameda Corridor at East 74th Street (CPUC Number 114-3.70-A) in an unincorporated part of the County of Los Angeles, State of California.	Ratesetting	Ratesetting	NO
<b>A06-04-008</b> ACROSS THE GLOBE TELECOMMUNICATIONS, INC., Across The Globe Telecommunications, Inc., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO